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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai

Addendum

Mission to Oman*

Summary

The Special Rapporteur on the rights to freedom of peaceful assembly and of association conducted an official visit to Oman from 8 to 13 September 2014 to assess the situation of the rights to freedom of peaceful assembly and of association in the country, pursuant to Human Rights Council resolutions 15/21 and 24/5.

Following two introductory sections, in sections III and IV the Special Rapporteur refers to a number of challenges in law and in practice in relation to the exercise of the rights under his mandate.

In sections V and VI, he focuses on the role of the National Human Rights Commission and the assistance activities of the Regional Office for the Middle East and North Africa of the Office of the United Nations High Commissioner for Human Rights.

Finally, in section VII, the Special Rapporteur formulates conclusions and recommendations.

* The summary of the present report is circulated in all official languages. The report itself, contained in the annex to the summary, is circulated in the language of submission and Arabic only.

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Annex

[Arabic and English only]

Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, on his mission to Oman (8–13 September 2014)

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I. Introduction

1. The Special Rapporteur on the rights to freedom of peaceful assembly and of association conducted an official visit to Oman from 8 to 13 September 2014. The purpose of the visit was to assess the exercise, promotion and protection of the rights under his mandate.

2. The Special Rapporteur views the invitation that was extended to him by Oman as testimony of the State's willingness to engage in a frank, constructive and open dialogue on the situation of human rights. He therefore presents his findings and offers his recommendations in a spirit of shared endeavour and commitment, supporting the efforts of Oman towards the realization of the rights to freedom of peaceful assembly and of association.

3. He thanks the Government for its cooperation before and during the conduct of the mission and commends Oman for being the first Arab country to agree on an official country visit. He had constructive talks with members of the executive, legislative and judicial branches. He met with the Attorney General, the Minister for Social Development, the Secretary-General of the Ministry of Foreign Affairs, the Assistant Inspector General of the Royal Oman Police, the Secretary-General of the State Council, the Chairman of the Consultative Council and the Chairman of the Public Administration of Judgement Enforcement. In addition to holding meetings in Muscat, the Special Rapporteur travelled to Salalah, in the south of the country, where he met with the Adviser at the Office of the Minister of State and Governor of Dhofar. The Special Rapporteur also had the opportunity to consult with representatives of the National Human Rights Commission and with human rights activists, both men and women, including lawyers, bloggers and researchers. He is most grateful to all his interlocutors.

4. The Special Rapporteur regrets, however, that the Ministry of Foreign Affairs did not accommodate his request to meet with Talib al-Mamari, a member of the lower chamber of the parliament, who was convicted of convening an illegal gathering and is currently serving a prison sentence at Sumail Central Prison. He also regrets that, although he would have liked to meet with representatives from the Ministry of the Interior, he was not accorded this opportunity. The Special Rapporteur would like to emphasize the importance of guaranteeing freedom of inquiry to mandate holders so that they can have free access to prisons and representatives of central and local authorities of all branches of Government, as provided for in the terms of reference for country visits (E/CN.4/1998/45). Free access enables the Special Rapporteur to objectively assess the state of the rights under his mandate.

5. In carrying out his visit, the Special Rapporteur was guided by several international legal standards, including the International Covenant on Civil and Political Rights, in particular its articles 21 and 22; the International Covenant on Economic, Social and Cultural Rights; the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms; and relevant Human Rights Council resolutions.

II. Political, economic, social and legal context

6. Oman is a hereditary monarchy headed by the Sultan, who is Head of State and Supreme Commander of the Armed Forces.

7. Among his other duties, the Sultan presides over the Council of Ministers, which implements State policy. The Sultan appoints and dismisses ministers and other officials of

equivalent status and authorizes and approves laws, decrees and accession to international treaties (see HRI/CORE/OMN/2013, paras. 18–20).

8. A series of political reforms have gradually increased the representation in government of elected officials, albeit in an advisory capacity. The legislative branch comprises the Council of State (Majlis al-Dawla), with 83 members, including 15 women, selected by the Sultan, and the Consultative Council (Majlis al-Shura). The Consultative Council works as an advisory body to the Sultan, with limited powers to propose legislation; it is composed of 84 members, including 1 woman, elected by universal suffrage (ibid., paras. 21–26).

9. The Sultan chairs the Supreme Council of the Judiciary, an organ with supervisory powers over the judicial system. Furthermore, the Sultan directly appoints and dismisses senior judges and presides over the Council of Ministers, which is tasked with overseeing compliance with court judgements. Though nominally independent (ibid., para. 27), the judiciary remains strongly influenced by the executive.

10. Since the 1970s, Oman has made remarkable progress in developing its economy, building infrastructure, widening access to education and improving health and basic services, such as water, housing and electricity. The country has tried to diversify its petroleum-dependent economy, promoting sectors based on renewable natural resources such as agriculture and fishing, encouraging tourism and producing light industrial goods. Oman has expanded its diplomatic relations, resolved its border disputes and assured a high degree of internal stability in a region often subject to turbulence, tensions and conflicts. The Special Rapporteur acknowledges the significant achievements made by Oman and commends the people and the Government for the considerable progress they have made.

11. The Special Rapporteur also notes that Oman is blessed with a diversity of ethnicities, cultures and nationalities and has remained largely cohesive and stable.

12. The Special Rapporteur notes the efforts made by Oman to consolidate the legal framework for the protection and promotion of human rights. The Basic Law of Oman sets out civil and political liberties for all, including the rights of expression and association, the rights to private property and personal privacy and the right to freedom of religion or belief. The rights of peaceful assembly and non-discrimination are, however, guaranteed only to Omani citizens,[1] contrary to best practices. In addition, a number of laws and decrees limit the rights to freedom of peaceful assembly and of association.

13. Oman is a party to international treaties relevant to peaceful assembly and association rights, including the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child. In addition, Oman has acceded to the International Convention on the Elimination of All Forms of Racial Discrimination and to the Convention on the Rights of Persons with Disabilities. From 1998 to 2001, it ratified four relevant conventions of the International Labour Organization (ILO).[2]

[1] Basic Law of the Sultanate of Oman promulgated by Royal Decree No. 101/96, arts. 32 and 17, respectively.

[2] Oman ratified Conventions No. 29 (1930) concerning Forced or Compulsory Labour in 1998; No. 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour in 2001; No. 138 (1973) concerning Minimum Age for Admission to Employment in 2005; and No. 105 (1957) concerning the Abolition of Forced Labour in 2005.

14. The Basic Law of Oman provides that international law has primacy over national laws,[1] but the country has made reservations to articles 9, 15, 16 and 29 of the Convention on the Elimination of All Forms of Discrimination against Women and to articles 7, 9, 14, 21 and 30 of the Convention on the Rights of the Child. The Special Rapporteur is pleased that Oman has recently lifted four of its reservations to the latter treaty and limited the scope of another reservation (see A/HRC/17/7, para. 12). Oman undertook to examine recommendations to remove its reservations to the Convention on the Elimination of All Forms of Discrimination against Women (ibid., para. 90.16).

15. The Special Rapporteur regrets that Oman has neither acceded to the core universal human rights instruments, such as the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, nor ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment or the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. The Special Rapporteur notes that, during its review in the framework of the universal periodic review mechanism in January 2011, Oman agreed to consider accession to the basic international instruments and postponed for further consideration the recommendations to sign and accede to the Covenants and their optional protocols (ibid., paras. 87 and 89.2). The Special Rapporteur was informed by multiple government officials that the Government was currently considering ratifying those instruments. He urges the Government to ratify the instruments at its earliest opportunity. While he agrees that States should take seriously any commitments they make and should therefore be prepared to implement the relevant obligations, that should not be used as an excuse to indefinitely delay ratification. The Special Rapporteur is convinced that the great strides that Oman has made in transforming and modernizing its society in the past 40 years signal the abundant capacity of the State to successfully implement the core international human rights treaties.

16. The Special Rapporteur notes with appreciation that Oman has accepted a recommendation to examine the possibility of extending an open invitation to all special procedures mandate holders in line with its belief in an open and constructive engagement with the United Nations human rights mechanisms (see A/HRC/17/2, para. 367) and that it welcomes visits conducted by all special procedures in compliance with the established procedures therefore (see A/HRC/17/7/Add.1, para. 90.27).

III. Challenges to the exercise of the right to freedom of peaceful assembly

A. Legal framework

17. Article 32 of the Basic Law of Oman provides that "citizens have the right to assemble within the limits of the Law", but there are no laws that clearly and explicitly establish the presumption in favour of holding peaceful assemblies or, generally speaking, which promote the right to peaceful assembly. Rather, most laws impose limits.

[1] Article (72) states that "The application of this Basic Statute shall not prejudice treaties and agreements the Sultanate has entered into with other countries, international bodies and organisations". Article (80) states that "No authority in the State may issue regulations, statutes, decisions or directives that contradict the provisions of laws and decrees in force, or international treaties and agreements which constitute part of the Law of the Land".

18. For example, articles 137 and 138 of the Penal Code criminalize seditious assembly, which is defined as "a private gathering including at least 10 individuals with a view to committing a riot or a breach of public order". The punishment for not dispersing an assembly following an order by the authorities is between 10 days and one year in prison and a fine not exceeding 50 rials. Furthermore, the law places limits on assembly rights that are vague and susceptible to misuse by the authorities. For example, "anyone who commits an act … expressing hatred and contempt" faces between three months and three years in prison and a fine of up to 500 rials. Article 130 bis of the Criminal Code provides for punishment of "anyone who promotes religious or sectarian dissension, or stirs up feelings of hatred among the country's population" by imprisonment for a period not exceeding 10 years.[4] Terms such as "hatred", "contempt" and "dissension" are ambiguous and are not defined in the law.

19. The Special Rapporteur finds that the country's legal framework is not conducive to the free and unhindered exercise of the right to freedom of peaceful assembly. He is particularly concerned that:

(a) The right to freedom of peaceful assembly is not recognized for everyone. In a country where a significant percentage of the population consists of migrant workers, restricting their rights to peacefully gather to express their concerns amounts to denying them an outlet to air their grievances. It places them at a higher risk of violations and abuses that may go unreported, uninvestigated and unpunished. The Special Rapporteur emphasizes that groups that are disenfranchised from mainstream political activities, such as voting and holding office, have an even greater need for alternative means to participate in the public sphere. Peaceful assemblies are an important tool for allowing the voices of otherwise excluded groups to be heard (see A/HRC/26/29, para. 25);

(b) The legal framework lends itself to the criminalization of the exercise of fundamental freedoms, including the right to freedom of peaceful assembly, and opens the door to judicial harassment, persecution and intimidation of individuals peacefully exercising that right. Under the Penal Code, the actions of libelling or expressing public criticism of the Sultan,[5] committing an affront to an official in service "publicly by publication and by speech or gestures"[6] and blaspheming or "pronounc[ing] a curse at his Prophets"[7] are all punishable by a maximum sentence of three years and/or a fine of up to 500 rials. Article 312 of the Code also makes the actions of disturbing "public tranquillity by screaming or making noise, with no reason, or by using any noisy device … in public or private places"[8] and obstructing public roads[9] punishable by prison sentences and/or fines;

(c) Some provisions in the laws are so broadly worded as to allow virtually unlimited interpretations of what could be an offence. That places excessive discretion in the hands of implementing authorities and creates uncertainty about what the law means for those exercising their rights. Some of the prohibitions impair the very essence of the rights to freedom of peaceful assembly, opinion and expression. For example, article 34 of the Penal Code defines public crimes as:

> The ones perpetrated by the following means: (1) Acts and gestures committed in a public place, or a place open to the public or exposed to sight, or those seen, due to the offender's fault, by an individual not intervening in the act or gesture; (2) Speech

[4] Royal Decree No. 72/2001, Assault Against the State's Internal Security.
[5] Royal Decree 7/74 establishing the Omani Penal Code, 16 February 1974, art. 126.
[6] Ibid., art. 173.
[7] Ibid., art. 209 (1).
[8] Ibid., art. 312 (4).
[9] Ibid., art. 312 (11).

and screams either made directly by the offender or through devices, so as they are heard by an individual not intervening in such speech or screams; (3) Various writings, drawings, pictures, photographies, films, emblems, if shown in a public place or a place open to the public". Article 223 prohibits homosexuality and states that "the suspects of homosexual or lesbian intercourse shall be prosecuted without a prior complaint, if the act results in a public scandal."

Public scandal is defined in the same way as public crime, making it de facto illegal for individuals to peacefully gather to claim the rights of sexual minorities;

(d) The laws allow the authorities wide powers to monitor people's activities, infringing the right to privacy and "chilling" social interaction and political activity. For example, the Telecommunications Act makes it illegal to knowingly send a message, by any form of communication, that violates public order and morals or is harmful to any person's safety.[10] The Law on Press and Publications authorizes the Government to censor, inter alia, communication exchanges made using any sort of device, including the Internet and smartphone applications, that might prejudice the safety and security of the State, without the permission of the competent authorities, or that might defame the Sultan, implicitly or explicitly, offend the ruling system or promote matters violating "the principles of the true Islamic religion".[11] In interactions with civil society activists, the Special Rapporteur was repeatedly told of hacked e-mail and social media accounts and of civil society activists who were repeatedly summonsed to meet with intelligence officers, who had detailed knowledge of their movements and activities. Such surveillance, even if it does not lead to formal criminal charges, has the effect of intimidating people and spreading fear among those who wish to speak out and work for reforms in Oman. Most activists that the Special Rapporteur met with believed that it was designed with that goal in mind.

B. Practice

20. The Special Rapporteur's extensive discussions with civil society actors and authorities revealed a predominant concern on the part of the State with maintaining peace, order and stability, to the extent of excessive control. Those are legitimate concerns for any State, but it is essential that the measures taken to ensure stability do not impair the essence of any fundamental right. Restrictions must also meet the strict standards of necessity and proportionality set out in international law. The Special Rapporteur has previously stressed that there should be a presumption in favour of the right to freedom of peaceful assembly, meaning that assemblies should be deemed de facto lawful and as not constituting a threat to public order (see A/HRC/23/39, paras. 49-50). He is therefore concerned at the reports from Oman of restrictions on assemblies, excessive use of force by the police, threats, arbitrary arrests, abductions, detentions in secret locations and torture at the hands of authorities.

21. During meetings with civil society activists, the Special Rapporteur heard harrowing reports of activists who had been kidnapped off the streets, sometimes hooded and handcuffed, and taken to secret detention locations, where they were interrogated for long hours and often detained for days. Several sources who had been detained reported that they were subjected to loud music at all hours and that authorities sometimes left the lights on

[10] Royal Decree 30/2002 (amended by Royal Decree 64/2007), Telecommunications Regulatory Act and Amendments, 12 March 2002, art. 61

[11] Royal Decree 49/1984 (amended by Royal Decree No 95/2011), Press and Publications, 29 May 1984, arts. 25 and 26

24 hours a day.[10] Beyond detention, activists are subjected to stigmatization in the largely government-controlled press, which not only affects the activists themselves but also members of their families, thus chilling their activities.

22. The Special Rapporteur is concerned that arrests and prosecutions for certain offences, particularly defamation of the Sultan, illegal gatherings and attempts to overthrow the Government, are used not to punish actual criminal activity but to suppress activists who call for reform and advocate for increased realization of human rights. His concern is not allayed by the fact that some activists arrested are not subsequently prosecuted. Rather, he believes that the practice of "arrest-interrogate-release" could be used as a tactic to intimidate and control. That practice should be vigorously discouraged. Activists know that charges stemming from an earlier arrest could be revived at opportune times and used as leverage to discourage them from continuing their activities.

23. The Special Rapporteur was informed that gatherings of more than nine people required de facto approval from authorities, an administrative procedure that cannot be contested before a court of law. The authorities are under no obligation to offer reasons for their decision to disperse an assembly and can broadly interpret what is perceived to be a threat to public order. Under international law, prior authorization is not required for the exercise of the freedom of peaceful assembly. At most, a prior notification regime may be in place to enable the authorities to take measures to facilitate the assembly and to protect public safety and the rights and freedoms of others (see A/HRC/20/27, para. 28). Spontaneous gatherings should be recognized by law and exempted from prior notification requirements (ibid., para. 29).

24. The Special Rapporteur met with several activists who described how they and their colleagues had been arrested or in several cases abducted, transported to secret detention locations, denied access to their lawyers and not brought before court within the stipulated period of 48 hours. Ismail al-Muqbali described how he was kept in solitary confinement for three months. It was only after 60 days in detention that he was brought before a court.

25. The authorities also frequently prevail upon the owners of establishments open to the public, such as coffee shops, hotels and Internet cafes, not to host meetings to discuss issues that are deemed political or critical of the Government. The Special Rapporteur was informed that awareness-raising meetings that are open to the public, such as book clubs and even social gatherings, have all been targeted by the authorities for dispersal.

26. In his report submitted to the Human Rights Council in April 2013, the Special Rapporteur said that he was very concerned about the high number of arrests, of charges and of sentencing against individuals who had taken part in or had monitored peaceful assemblies during the reporting period, and that the replies transmitted by the Government had not dispelled his concerns about the physical and psychological integrity of individuals exercising their rights to freedom of peaceful assembly and association in the country (see A/HRC/23/39/Add.2, para. 300).

27. His concerns were heightened by reports of non-governmental organizations and the media referring to the unprecedented use of force and mass arrests of peaceful protestors who gathered in Muscat and Sohar in January and February 2011 to demand, inter alia, better working conditions, higher standards in education, the end of corruption and economic and political reforms. Furthermore, reports indicate that a massive peaceful protest was violently dispersed by the police in Sohar in April 2011, resulting in one death.

[10] The Committee against Torture has noted that sleep deprivation, when used for prolonged periods, constitutes a breach of the Convention against Torture (see, for example, CCPR/C/USA/CO/3/Rev.1, para. 13).

dozens of injuries and 23 arrests. In May 2011, about 80 people were arrested in Muscat while participating in a peaceful protest calling for the release of other protestors, themselves recently arrested in Muscat, Salalah and Sohar. Among the detainees were young lawyers, bloggers, writers and members of unregistered organizations, including women.

28. During the Special Rapporteur's visit, the authorities acknowledged arresting protestors and placing several in solitary confinement following the peaceful protests in January and February 2011. They also admitted that one person had been killed on 27 February 2011 and another on 28 April 2011 following a protest and that investigations were ongoing. They further confirmed that individuals involved in the protests had been arrested at their homes in March 2011, but that they had been released without charges after signing pledges not to commit acts of destruction of public property (see A/HRC/18/51, case No. OMN 1/2011). The Government has also informed the special procedures of the Human Rights Council that the court of first instance released all the remaining accused on 18 May 2011.

29. The Special Rapporteur joined an urgent appeal to Oman on 21 June 2012 concerning the reported arrests of three members of the Omani Group for Human Rights, including one woman, while on their way to Fohod oil field to monitor a strike on 31 May 2012 (A/HRC/22/67, p. 23). In its reply, the Government stated that the three individuals had been handed over to the Public Prosecutor on the charges of "incit[ing] participation in a strike gathering" and "stir[ring] unrest in the oil sector" (ibid.). During the country visit, government representatives asserted that the Group had had no authorization or mandate to go into the oil fields. While the Special Rapporteur does not dispute the Government's position that the oil fields are vital installations on which the economy depends, he does not consider that this necessarily implies that no peaceful assemblies or monitoring of assemblies can take place at those locations. He reiterates that blanket restrictions on peaceful assemblies are intrinsically disproportionate and should thus not be imposed (see A/68/299, para. 25).

30. In the weeks that followed the arrests of the Omani Group for Human Rights members, the authorities reportedly began actively apprehending online activists for their comments on social platforms such as Facebook and Twitter. The police also reportedly cracked down on a peaceful sit-in calling for the release of political detainees and arrested more than 20 people for seditious assembly, blocking traffic, insulting the Sultan and using the Internet to publish defamatory material.[13]

31. Following a series of group trials during July, August and September 2012, the Muscat court of first instance reportedly convicted 29 people and sentenced 28 of them to between 6 and 18 months in prison and to fines ranging from 200 to 1,000 rials.[14] According to reports, the appeal court in Muscat upheld all the convictions in December 2012.

32. The Special Rapporteur is also concerned about the case of 11 people, including two women, who were convicted in 2012 on charges including insulting the Sultan, using the Internet to send defamatory material, unlawfully gathering and publishing harmful and provocative material. The Special Rapporteur sent a joint appeal to Oman on 27 February 2013, 15 days after the 11 detainees reportedly started a hunger strike over delays in

[13] Amnesty International public statement, "Oman must end assault on freedoms of expression and assembly", 21 December 2012. Available from www.amnesty.org/ar/library/asset/MDE20/006/2012/en/0009f1b4-1d9f-4943-ae89-7c6aa44b4dd1/mde200062012en.pdf.

[14] Human Rights Watch, *World Report 2013*, Oman, available from www.hrw.org/world-report-2013/country-chapters/oman?page=1.

processing their cases (see A/HRC/23/51, case OMN 1/2013). On 22 March, the Government informed the special procedures of the Human Rights Council that the Sultan had pardoned the 11 individuals.

33. In August 2013, the Special Rapporteur received information on additional protest movements in Liwa, a city north of Sohar, against the pollution of the waters of the port by petrochemical industries. Police reportedly dispersed the demonstrations with tear gas and water cannons and arrested several people, including Talib al-Mamari, who was elected to the Consultative Council in 2011 and known for his moderate critical opinions. Mr. Al-Mamari was reportedly arrested at night at his brother's home and charged with inciting a crowd and seditious assembly. His sentence was reportedly upheld by the court of appeal, but overturned by the Supreme Court because of a procedural error. The retrial was held in Muscat on 6 August 2014. He reportedly faces a four-year prison term and is currently in custody awaiting his appeal.

34. The Special Rapporteur firmly believes that the rights to freedom of peaceful assembly and of association apply both offline and online, as the Human Rights Council has affirmed in its resolutions 21/16 and 26/13. He was therefore concerned to hear during his visit that the authorities had reportedly employed a variety of tactics to clamp down on and control the use of information and communications technology. There are widespread reports that authorities systematically hack into online accounts and hijack them and flood social media such as Twitter with an endless stream of hashtag references, thus disrupting discussion on specific topics. The example of the Omani Group for Human Rights is instructive. In addition to online surveillance, authorities reportedly went as far as preventing the group members from communicating on WhatsApp. Voice over Internet Protocol services such as Skype are blocked in Oman, a situation that the Special Rapporteur experienced first hand. The Special Rapporteur reiterates that States have the obligation to ensure that online assemblies are facilitated in accordance with international human rights standards.

35. Members of civil society who met with the Special Rapporteur made repeated mention of the Internal Security Forces of Oman, a government agency that they say is primarily responsible for the reported harassment, abduction, unlawful detention and torture of peaceful protestors. The Special Rapporteur wishes to restate his deep regret that his requests to meet with representatives from the agency were not granted. It would appear that the body is a key interlocutor and the Government lost an opportunity to engage in frank discussions on the role it plays. Of greater concern is the opaqueness with which the agency operates. Officials from the Government itself told the Special Rapporteur that the agency is a secret intelligence unit with an unknown configuration and budget that reports directly to the Sultan.

36. The Special Rapporteur is also unaware as to where the agency stands in relation to the Royal Oman Police, the latter being the authorities officially charged with maintaining law and order in the country. The police is the only body authorized to carry out arrests. Its Directorate General of Operations plans and implements police activities related to maintaining public security and safety. The Directorate also makes decisions on the granting of permits to hold assemblies and the security arrangements during these events.

IV. Challenges to the exercise of the right to freedom of association

A. Legal framework

37. The right to freedom to form associations is virtually non-existent in Oman, despite the fact that it is nominally protected as a constitutional right under article 33 of the Basic Law. The 1972 Law on Associations, since amended several times,[11] places severe and sweeping restrictions on the right, making it virtually impossible to establish a legal association without government consent, cooperation and control. The law, inter alia:

(a) Limits the type of associations that may be formed, their objectives and the areas that they can cover;

(b) Bans political parties;

(c) Makes registration mandatory;

(d) Gives the Ministry of Social Development unbridled discretion to approve or deny registration applications for any reason the Minister deems relevant;

(e) Requires associations to obtain government approval before they work with, or receive funding from, foreign organizations;

(f) Requires associations to notify the Government of any planned meeting at least 15 days in advance and to provide a copy of the meeting minutes;

(g) Prescribes that a representative of the Government attend the meetings of associations.

38. The provisions run counter to the most elementary precepts of international law on the subject of freedom of association, and effectively turn associations into pseudo-governmental bodies. It is critical that associations have the ability to remain independent of the Government, as the right to freedom of association is fundamentally a matter of providing a vehicle for individuals to come together and express their concerns, free of official sanction or interference. It is to be expected that people's concerns — in any country — would include criticism of the Government and its policies. Excessive government control over the establishment and operation of associations is a natural obstacle to that. The Government pledged to amend the law during its universal periodic review in January 2011. The Special Rapporteur was pleased to hear during his visit that the law was being reviewed, but expresses his disappointment that the Government did not share an official draft of the law or elaborate on the specific changes that were being made. He hopes that the amendments will greatly improve the current legal environment and place the emphasis on creating an enabling environment for civil society. He remains available for technical assistance on the content of the law.

39. In addition, political parties and other associations that "are against Oman's statutes or social and economic systems" are banned under article 134 of the Penal Code. Any breach of these provisions results in the dissolution of the association, confiscation of assets, 3 to 10 years' imprisonment of the founding members and the board of directors and a five-year prohibition on their right to hold a leadership position in an association. Members face one to three years' imprisonment.

[11] See Royal Decrees 14/2000, 30/2001 and 23/2007.

40. In addition, the Special Rapporteur refers to the following laws, which also limit the enjoyment of association rights in Oman:

(a) The Law on Labour Unions gives workers the right to form trade unions.[16] According to Ministerial Decision 570/2012, a trade union can be formed by any private sector organization with 25 or more employees and, once registered, has an independent legal identity.[17] The Special Rapporteur notes with appreciation the recent efforts made by Oman in bringing Omani law closer into alignment with international standards. Nevertheless, he has received reports criticizing the far-reaching influence of the Government over the General Labour Union, the umbrella organization that serves as a confederation of Oman's labour unions;

(b) The Law on Nationality provides that an Omani born citizen will lose his/her citizenship if he or she "belongs to a group, party or organization that embraces principles or doctrine harming Oman's interests, or either works for a foreign country in any capacity in or outside Oman and does not resign before the imposed deadline or works in favour of a hostile State."[18] The Special Rapporteur is concerned that the law could be used to threaten or punish civil society activists who gather to express dissent or criticism in a specific field of common interest.

B. Practice

41. The Special Rapporteur is extremely concerned about the restrictive environment for the exercise of the right to freedom of association in Oman.[19] The authorities cite security considerations as the rationale for such a restrictive approach to that right in Oman. However, the Special Rapporteur believes strongly that restrictive approaches to both that right and the right to freedom of peaceful assembly are actually counter-productive. It is natural and inevitable for people in any society at some point to experience dissatisfaction, the urge to improve things and even anger. The rights to freedom of peaceful assembly and of association are safety valves that allow such emotions to be released in a non-violent and productive manner. Individuals need to feel that they have the means to bring about change peacefully and to improve things or gain redress. If they do not, they will find other ways to change things and, as has been seen in recent years, many such ways can be extremist, non-peaceful or unproductive. Indeed, the Special Rapporteur believes that restrictions on peaceful and open civil society movements are likely to push associations underground, where they are marginalized, criminalized and ultimately more likely to transform into extremist movements.

42. The Special Rapporteur is deeply concerned about the role of the Ministry of Social Development in the regulation of associations. The Ministry is an executive-branch body

[16] Royal Decree 35/2003, as amended by Royal Decree 74/2006 on Labour Unions, dated 8 July 2006.
[17] Ministerial Decision 570/2012 promulgating the formation, functioning and registration of trade syndicates, trade unions and the General Federation of Oman Trade Unions, 15 October 2014.
[18] Royal Decree 1/1972 as amended by Royal Decree 38/2014, Nationality, 11 August 2014.
[19] The Committee on the Rights of the Child and the Committee on the Elimination of Discrimination against Women reviewed Oman in 2001 and 2006, and 2011, respectively. The latter Committee said that it was "concerned about the absence of a vibrant civil society, including autonomous and active women's human rights organizations" (see CEDAW/C/OMN/CO/1, para. 31). The Committee on the Rights of the Child stated in 2001 that "insufficient efforts have been made to involve civil society, particularly in the area of civil rights and freedoms, with respect to awareness-raising and in the implementation of the Convention" (see CRC/C/15/Add.161, para. 14), but took note in 2006 of the "active role played by civil society in the provision of services, particularly health and social services, for example for children with disabilities" (see CRC/C/OMN/CO/2, para. 20).

whose Department of Social Societies and Community Clubs exercises vast control over the civil society sector, including handling the registration of associations, monitoring associations' operations and supervising their activities. In addition, the Department limits registration to associations that fall under the one of its four identified thematic branches:

(a) The department of charities and funds, for associations that contribute to social care and economic, social and cultural development;

(b) The department of professional associations, for associations that represent professional branches;

(c) The department of Omani women's associations, for associations that work in the social and cultural spheres;

(d) The department of community social clubs, for associations that organize cultural, social and sporting activities.

43. The Special Rapporteur finds it troubling that an executive branch body has total authority over who can form and operate an association and on what issues associations can focus. The Minister for Social Development informed the Special Rapporteur that associations would not be denied registration provided that they met the requirements of the law and did not duplicate the activities of an association already registered. The Special Rapporteur was informed of situations in Oman where political organizations had been denied registration because their work was "already covered" by other associations.[20] Other sources told the Special Rapporteur that an association working to protect forest land in the Dhofar region had been denied registration because its work was "too similar" to that of another group based in Muscat working more generally on environmental issues.

44. In the same vein, the Special Rapporteur received a report indicating that, on 3 June 2014, the Ministry of Social Development had rejected the registration application of an association for people with visual disabilities on the basis that an association for the blind already existed in Oman. The association filed a case first in the court of first instance and then in the Court of Appeal, arguing that the definition of "visual disabilities" was wider than "blind" and that the pre-existing association for the blind was limited to adults. The court ruled against it in June 2014, basing its decision on the rightful use by the Ministry of Social Development of its margin of discretion, as stipulated in the Law on Associations.

45. An adverse effect of the Ministry of Social Development's immense power over registrations is the centralization of decision-making in Muscat. As such, it is probably not a coincidence that most of the registered associations in Oman are located in Muscat. This centralization serves to silence the needs and demands of civil society organizations in regions outside the capital. It is not enough for Muscat-based organizations to open branches outside of the capital; there is also a need for robust and independent associations at the local and grass-roots levels.

46. Associations can be de-registered if they do not carry out the activities for which they were established. If the association is deemed not to be running smoothly, the Ministry of Social Development may step in to suggest restructuring to "promote efficiency". In the view of the Special Rapporteur, this expansive oversight by the Ministry constitutes unjustifiable interference in the operations and activities of associations.

47. Independence from the Government and other institutions is one of the founding aspects of the right to freedom of association. The right is meant to empower individuals to come together and work for their interests, so long as they are doing so for legal and

[20] Reply of the Minister of Social Development when questioned about registration arrangements for political organizations, Muscat, 9 September 2014.

peaceful purposes. The Special Rapporteur urges the Government to accord civil society actors the same freedom to establish themselves as businesses, even where they are working on the same issues. It is unlikely that Government would step in to restructure a private business, even if it was deemed to be "operating inefficiently", or that the Government would prohibit, for example, the establishment of a hotel because another was established in the same area. There is no justifiable reason to distinguish between civil society and business sector organizations, both of which are non-State actors.

48. The Special Rapporteur is gravely concerned at the inability to associate of those independent activists who express dissenting views. The activists that the Special Rapporteur met with in Oman and elsewhere, from both domestic and international organizations, reported that the right to associate to express critical opinions is virtually non-existent.

49. At the time of the Special Rapporteur's visit, there were 26 professional associations, 28 charities, 54 women's associations, 12 community clubs and 196 labour unions registered in Oman.[7] There was, however, a total lack of associations with objectives falling outside the scope of work defined by the Department of Social Societies and Community Clubs. The main activities of registered associations are the support and financing of economic, social and cultural programmes. For example, the work of women's associations is restricted to health, education and poverty reduction. The Committee on the Elimination of Discrimination against Women has expressed concern that equality between women and men is limited to the public rights and does not extend to the private sphere relations of family and marriage (see CEDAW/C/OMN/CO/1, para. 13). However, there are no women's associations in Oman that strive to achieve equality between women and men from a civil and political rights perspective or work on human rights issues, such as violence against women.

50. Associations pursuing political reforms and government accountability and transparency are systematically denied registration. For example, the Change and Reform and Association against Corruption associations were both denied registration in 2011. That is all the more striking because both the Government and civil society repeatedly raised the issue of corruption in their meetings with the Special Rapporteur, with all concerned expressing the need to combat it. The Special Rapporteur underlines that this is a point of convergence between the authorities and civil society that Government officials should welcome. Voices from outside the Government are needed to end corruption and hold the Government accountable. It is axiomatic that organizations, whether private or public, require independent, external audits in order to be deemed credible and transparent.

51. In meetings with the Government, several officials also emphasized that Omani society valued a culture of consensus. The Special Rapporteur considers that consensus requires open, unhindered dialogue among all stakeholders and should not involve silencing dissenting or critical voices. The Special Rapporteur emphasizes that an independent, free and robust civil society is a valuable partner in drawing up and implementing policies for combating corruption and promoting further growth.

52. Finally, the Special Rapporteur is deeply concerned by the inability of activists in Oman to associate freely online. As noted above, he observed first-hand that access to some of technologies for the delivery of voice communications and multimedia through Voice over Internet Protocol and instant messaging services was limited, and a number of bloggers and writers have been imprisoned for allegedly expressing dissenting views online.

[7] Numbers provided by the National Human Rights Commission of Oman on 9 September 2014.

53. The Special Rapporteur reiterates the importance of new communication technologies and the integral role they play in the enjoyment of the rights to freedom of peaceful assembly and of association. On 26 June 2014, the Human Rights Council adopted its resolution 26/13, on the promotion, protection and enjoyment of human rights on the Internet. Furthermore, in its resolution 21/16, the Council reminded States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline. The Special Rapporteur echoes those calls and argues that information and communications technology is integral to the exercise of assembly and association rights. The Special Rapporteur is convinced that the technology is both a means to facilitate fundamental rights offline and a virtual space where the rights themselves can be actively exercised.

V. National Human Rights Commission

54. Royal Decree 124/2008 of 15 November 2008 establishes the National Human Rights Commission and defines its prerogatives. Article 1 of the Decree provides that the Commission is administratively affiliated to the Council of State. The Decree stipulates that the Commission shall be independent and that it has been established for the "protection and follow up of human rights and freedom in the Sultanate according to basic statute of the State and the international covenants and agreements".[22]

55. The Commission is mandated to, inter alia:

(a) Monitor human rights violations;

(b) Liaise with the concerned authorities on matters related to human rights;

(c) Submit to the Council of Ministers for approval an annual workplan on the implementation of human rights;

(d) Coordinate input on human rights from foreign States, international organizations and non-governmental organizations.

56. The Special Rapporteur notes that the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights accredited the Commission with B status in November 2013, i.e. not fully in compliance with the Principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles). The Sub-Committee on Accreditation considered the following factors in assigning the grade:

(a) **Representatives**. Royal Decree 124/2004 stipulates that the Commission shall have 14 members, of which two are members of the legislative branch and six of the executive. The Sub-Committee considers that government officials should not be represented in a national human rights institution. For the same reason, members of parliament should not be members of nor participate in the decision-making organs of such institutions. Their presence and participation in the decision-making body of such institutions has the potential to affect both the real and perceived independence of the institution;[23]

[22] Royal Decree 124/2008, Human Rights Commission, 15 November 2008, art. 7.1.

[23] See Report and Recommendations of the Session of the Sub-Committee on Accreditation, Geneva, 18–22 November 2013, sect. 2.4, para. 1. Available from http://nhri.ohchr.org/EN/AboutUs/ICCAccreditation/Pages/SCA-Reports.aspx.

(b) **Mandate**. The Decree fails to provide the Commission with a clear mandate and appropriate powers to promote and protect human rights in the areas specifically highlighted by the Paris Principles;[24]

(c) **Selection**. The Decree fails to meet the requirement for clear, transparent and participatory selection of candidates.[25]

57. When reviewing Oman, the Sub-Committee looked at the questions of immunity, tenure of members, interaction with the international human rights system, annual reports, funding and conflict of interests, and encouraged the Commission to advocate for the inclusion in Royal Decree 124/2008 of a specific mandate to encourage the ratification and implementation by Oman of international human rights standards.[26]

58. The Special Rapporteur echoes the Sub-Committee's concerns. Civil society activists similarly expressed a lack of confidence in the National Human Rights Commission, and felt that the Commission could do more to bridge the gap between the Government and civil society. The Special Rapporteur agrees. The members of the Commission corroborated that sentiment when they admitted that civil society activists did not approach the Commission with information on violations of human rights.

59. The Special Rapporteur notes the work done by the Commission in monitoring and reporting on peaceful assemblies, including observing the trials of those arrested during such assemblies, while recognizing the limitations in its mandate. The Special Rapporteur is pleased to learn that Oman supported the recommendations made during its universal periodic review to establish an independent national human rights commission and adapt it fully to the Paris Principles, with a broad and clear mandate.

60. The Special Rapporteur emphasizes that, although the scope of Commission's mandate is of concern, its credibility depends upon how it executes its existing mandate. He was encouraged by the positive energy displayed by the members and staff of the Commission. He notes with appreciation that the Commission is seeking to strengthen its role by, inter alia, advocating for the ratification of ILO conventions No. 87 (1948) concerning Freedom of Association and Protection of the Right to Organise and No. 98 (1949) concerning the Application of the Principles of the Right to Organise and to Bargain Collectively; encouraging associations to participate in the next universal periodic review exercise; visiting detainees in prisons; and disseminating information about human rights though meetings with various stakeholders. The Special Rapporteur stresses that the Commission's robust engagement with the issues that fall within the current scope of its mandate is a good indication that a new, better-defined mandate, together with appropriate powers, would be a useful tool in the hands of the Commission.

61. The Special Rapporteur remains available to provide technical assistance to the Commission on the rights under his mandate.

VI. Assistance activities of the Regional Office for the Middle East and North Africa of the Office of the United Nations High Commissioner for Human Rights

62. The Regional Office for the Middle East and North Africa of the Office of the United Nations High Commissioner for Human Rights (OHCHR) has worked to, inter alia:

[24] Ibid., para. 2.
[25] Ibid., para. 3.
[26] Ibid., paras. 4–10.

(a) Respond to ongoing developments;

(b) Follow political, legal and institutional reforms;

(c) Remain fully engaged with the transition processes.

63. The Special Rapporteur welcomes the work of OHCHR in developing training programmes to enhance the capacity of civil society and the National Human Rights Commission with regard to international mechanisms for human rights, including the universal periodic review, and responding to requests for technical assistance by the authorities.

64. The Special Rapporteur urges OHCHR to continue its activities in providing technical support to government institutions and civil society. He also urges it to reach out to local civil society activists, particularly online civil and political rights activists, including women, both within and outside of Muscat.

VII. Conclusion and recommendations

A. Conclusion

65. The rights to freedom of peaceful assembly and of association are both platforms and collective exercises of other fundamental freedoms; they foster accountability, ethnic equity, cultural diversity, tolerance, participation and good governance, which in turn promote stability and peace.

66. In his meetings with the Government, the Special Rapporteur observed a consistent focus on maintaining peace, order and stability in Oman, often used as the rationale for limiting assembly and association rights. Nevertheless, in his view, human rights are the foundation for true and sustainable stability. Stability flows organically through involvement and consensus, as part of a social contract in which everyone freely participates.

67. The legal environment for the exercise of the rights to freedom of peaceful assembly and of association in Oman is problematic and needs to be strengthened with reference to international human rights standards. The country's impressive achievements in building the economy, maintaining stability and modernizing society are threatened in the long term by a climate in which the populace is not free to associate and organize itself to address its concerns or pursue its own interests. Silencing voices of dissent is not a viable approach going forward. When a Government fails to provide an outlet for popular sentiment, it loses a valuable opportunity to feel the pulse of the nation, and effectively creates a sealed vessel under pressure that will eventually explode with dire consequences.

68. The Special Rapporteur makes the recommendations below, confident that the Government will take their implementation as an opportunity to consolidate the progress of Oman towards the realizations of the rights to freedom of peaceful assembly and of association. Its efforts would undoubtedly resonate at the regional and international levels and influence other countries positively.

69. The Special Rapporteur reiterates that he stands ready to provide technical cooperation to the Government as it implements the recommendations.

B. Recommendations

70. The Special Rapporteur would like to offer the following general recommendations:

(a) Expedite the ratification of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights;

(b) Withdraw all outstanding reservations to human rights treaties in the interest of ensuring the full enjoyment of human rights by everyone in Oman;

(c) Ensure in law and in practice that the rights to freedom of peaceful assembly and of association play a decisive role in the emergence and maintenance of effective democratic systems as channels for dialogue, pluralism, tolerance and broadmindedness, where minority or dissenting views or beliefs are respected;

(d) Ensure a conducive and safe environment for everyone exercising or seeking to exercise his or her rights to freedom of peaceful assembly and of association, abolish legislation that criminalizes homosexuality and ensure that State obligations to achieve non-discrimination and equality are immediate and not subject to progressive realization (see A/HRC/26/29, para. 19);

(e) Ensure that no one is criminalized for exercising the rights to freedom of peaceful assembly or of association, or subjected to threats or use of violence, harassment, persecution, intimidation or reprisals;

(f) Ensure that any restrictions on the rights to freedom of peaceful assembly and of association are guided by the principle that they must not impair the essence of the right and that they are prescribed by law; are necessary in a democratic society; are proportionate to the aim pursued; and are subject to an independent, impartial and prompt judicial review;

(g) Ensure freedom of access to the Internet in accordance with international human rights standards, including the protection of the rights to freedom of peaceful assembly and of association online;

(h) Provide individuals exercising their rights to freedom of peaceful assembly and of association with the protection offered by the right to freedom of expression;

(i) Ensure that administrative and law enforcement officials are adequately trained in relation to international human rights norms and standards governing the rights to freedom of peaceful assembly and of association;

(j) Ensure that law enforcement officials who violate the rights to freedom of peaceful assembly and of association are held personally and fully accountable for such violations by an independent and impartial oversight body, and by the courts of law;

(k) Ensure that the victims of violations and abuses of the rights to freedom of peaceful assembly and of association have the right to an effective remedy and to obtain effective redress;

(l) Raise public awareness on the laws and regulations pertaining to the rights to freedom of peaceful assembly and of association.

71. Concerning the right to freedom of peaceful assembly, the Special Rapporteur calls on the relevant authorities to:

(a) **Guarantee in law and in practice the right to freedom of peaceful assembly of everyone, including citizens and non-citizens, without exception;**

(b) **Adopt a law that clearly and explicitly establishes the presumption in favour of holding peaceful assemblies;**

(c) **Repeal laws that criminalize the act of defaming the Head of State or other political figures;**

(d) **Amend Royal Decrees 30/2002[27] and 49/1984[28] in full consultation with civil society and other relevant stakeholders in order to ensure compliance with international human rights standards, including the right to freedom of peaceful assembly;**

(e) **Ensure that allegations of excessive use of force by law enforcement officers are effectively investigated and that individuals responsible are held accountable;**

(f) **Release all those detained for exercising the right to freedom of peaceful assembly;**

(g) **Endorse a prior notification regime for all peaceful assemblies in order to better facilitate and protect them;**

(h) **Recognize in law, and facilitate, spontaneous peaceful assemblies, which should be exempted from prior notification requirements;**

(i) **Ensure that restrictions imposed on peaceful assemblies can be appealed before an impartial and independent court.**

72. **Concerning the right to freedom of association, the Special Rapporteur calls on the relevant authorities to:**

(a) **Adopt without delay a new law on associations that complies with international human rights standards, including the right to freedom of association;**

(b) **Amend article 134 of the Penal Code of Oman and any other legislation that disproportionately restricts the right to freedom of association;**

(c) **Amend Royal Decree 38/2014[29] in full consultation with civil society and other relevant stakeholders to ensure that it complies with international human rights standards, including the right to freedom of association;**

(d) **Offer all citizens, including political opponents, the right and opportunity, without any distinctions and without unreasonable restrictions, to freely form and register a political party and operate in a pluralistic political sphere;**

(e) **Promote the rights of women to freely associate and enable them to participate more effectively in public life;**

(f) **Ratify core labour standards protecting the right to freedom of association, including International Labour Organization conventions No. 87 (1948)**

[27] The Decree makes it illegal to knowingly use any form of communication to send a message that violates public order and morals or is harmful to any person's safety.

[28] The Decree authorizes the Government to censor communication exchanges with any sort of device.

[29] The Decree provides that an Omani-born citizen will lose his/her citizenship if he or she belongs to a group, party or organization that embraces principles or doctrine harming Oman's interests, or either works for a foreign country in any capacity in or outside Oman and does not resign before the imposed deadline or works in favour of a hostile State.

concerning Freedom of Association and Protection of the Right to Organise and No. 98 (1949) concerning the Right to Organise and to Bargain Collectively;

(g) Refrain from interfering with the work of the General Labour Union;

(h) Endorse a regime of notification whereby an association is considered a legal entity as soon as it has notified its existence to the relevant authorities;

(i) Allow unregistered associations to operate;

(j) Avoid interference with the operations of associations, including funding and private meetings;

(k) Ensure that any partnerships between Government and civil society are voluntary.

73. In addition, the Special Rapporteur calls upon the National Human Rights Commission to:

(a) Apply the recommendations of the Sub-Committee on Accreditation of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights without further delay to gain credibility and enhance its protection and advocacy roles;

(b) Enquire proactively and take a public critical stand on violations of the rights to freedom of peaceful assembly and of association;

(c) Clearly and publicly articulate and disseminate international human rights norms and standards governing the rights to freedom of peaceful assembly and of association;

(d) Engage further with civil society to address its concerns in relation to the exercise of the rights to freedom of peaceful assembly and of association;

(e) Offer training activities to government officials and members of civil society on international human rights norms and standards, including those governing the right to freedom of peaceful assembly and of association;

(f) Follow up and monitor the implementation of the recommendations contained in the present report.

74. The Special Rapporteur also calls upon civil society organizations to:

(a) Use every opportunity to participate in decision-making processes;

(b) Seize all opportunities for training offered to its members;

(c) Engage with various stakeholders, including the international community;

(d) Follow up and monitor the implementation of the recommendations contained in the present report.

75. The Special Rapporteur calls on the United Nations and other intergovernmental organizations, and other stakeholders, to:

(a) Advocate with the relevant authorities concerning respect for the rights to freedom of peaceful assembly and of association;

(b) **Build the capacities of the relevant authorities, the National Human Rights Commission and civil society organizations;**

(c) **Monitor the implementation of the recommendations contained in the present report.**